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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

\_\_\_\_\_  
In the Matter of )  
 )  
C.F. Communications Corp., et al. )  
 )  
Complainants, )  
 )  
v. )  
 )  
Century Telephone of Wisconsin, )  
Inc., et al. )  
 )  
Defendants )  
\_\_\_\_\_

EB Docket No. 01-99

File Nos. E-93-43, E-93-44, E-93-45

To: **Arthur I. Steinberg**  
**Administrative Law Judge**

**DEFENDANT'S MOTION AND MEMORANDUM TO COMPEL ANSWERS TO  
INTERROGATORIES FROM COMPLAINANT ASCOM HOLDING, INC.**

The Carolina Telephone and Telegraph Company, in File No. E-93-43, United Telephone Company of Pennsylvania, in File No. E-93-44, and United Telephone Company of Florida in File No. E-93-45, ("Defendants") by their attorneys moves for an order compelling Complainant Ascom Holding, Inc. (f/k/a Ascom Communications, Inc. and U.S. Communications of Westchester, Inc.) ("Complainant"), to provide substantive answers to interrogatory nos. 3 and 4(a-f), (the "Interrogatories") propounded in Defendants' First Set of Interrogatories. Although the information sought in the Interrogatories is clearly relevant and discoverable under the governing Hearing Designation Order, Complainant has refused to provide substantive information for these interrogatories.<sup>1</sup>

No. of Copies rec'd 076  
List A B C D E

<sup>1</sup> Copies of the Defendants' First Set of Interrogatories and Complainant's Responses and Objections are annexed as, respectively, Exhibits A and B.

Pursuant to Commission Rule 1.311(b), 47 CFR § 1.311(b), a party may obtain discovery “regarding any matter, not privileged, which is relevant to the hearing issues” or which “appears reasonably calculated to lead to the discovery of admissible evidence.” The governing Hearing Designation Order (“HDO”) directs the Complainant to prove the damages that it has incurred as a result of (i) paying (ii) improperly assessed EUCL fees (iii) on public payphones (iv) that were in use during the relevant time periods. The Interrogatories seek information within the scope of the HDO.

Interrogatory 3 asks:

On a Defendant-by-Defendant basis, identify by telephone number and physical location (including street address, community, state and ZIP Code) of each pay telephone for which the Complainant is seeking damages for the relevant time period in this proceeding, and identify any documents in the Complainant's possession which support Complainant's claim.

Interrogatory 4 asks:

For each individual pay telephone identified in response to Interrogatory No. 3, provide separately the following information:

- a) the telephone number of the payphone;
- b) the service commencement date of the payphone;
- c) the service termination date of the payphone, or a statement that the payphone is still in service;
- d) the time period for which damages are being claimed by the Complainant for the payphone;
- e) the exact dollar amount of EUCL charges actually paid by the Complainant to the Defendants for the payphone during the period specified in response to Interrogatory No. 4(d), above; and identify all documents in the Complainant's possession demonstrating Complainant's payment of such EUCL charges;
- f) the identity of the premises owner/lessee;
- g) state expressly whether the Complainant classifies and claims the payphone to be a public payphone or a semi-public payphone; and
- h) state the specific reasons for Complainant's classification and claim with respect to the payphone in response to Interrogatory No. 4(g), above.

Complainant admits that it has in its possession, and readily available, bills sent to Complainant by the Defendants and other documents, which contain some, if not all, of the requested information. Complainant refuses, however, to identify the requested information in response to the Interrogatories. Rather, in response to interrogatories 3 and 4a, b, c, and f, the Complainant states, using a boilerplate response that, “[b]ecause the burden of ascertaining or deriving the information necessary to answer this interrogatory from these records is the same for Defendant and for Complainant, Complainant will make the responsive, non-privileged documents in its possession, custody, or control available to Defendant for inspection, copying, and review at [its] offices.”

In response to Interrogatory 4(d), Complainant does not identify the beginning period for which damages are claimed. Rather, Complainant simply indicates that it claims damages “from the time Complainant’s lines were installed...” .


In response to Interrogatory 4(e), Complainant responds by stating that a “complete, accurate, and detailed computation of the exact dollar amount... can be completed after Defendant produces information and documents within the Defendant’s possession...” . This answer begs the question of what Complainant has in its possession and does not address whether and to what extent the information is available in the Complainant’s existing documents and bills.

The Complainant filed its formal complaint in 1993 and has had in its possession the documents necessary to determine the responses to Defendant’s Interrogatories since at least that time. Moreover, as found in the HDO, Complainant has the burden of proof and the burden of going forward and will have to determine this information to proceed with its case. Accordingly, Complainant should be ordered to answer all of the subject Interrogatories, and to produce the information sought, by no later than July 30, 2001.

Respectfully submitted,

**Carolina Telephone and Telegraph Company,  
United Telephone Company of Pennsylvania,  
United Telephone Company of Florida**

Blooston, Mordkofsky, Dickens,  
Duffy & Prendergast  
2120 L Street, N.W., Suite 300  
Washington, D.C. 20037  
Tel: (202)659-0830

By:   
Benjamin H. Dickens, Jr.  
Robert M. Jackson  
Mary J. Sisak

Dated: July 18, 2001

Their Attorneys

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
C.F. Communications Corp., et al.	)	EB Docket No. 01-99
	)	
Complainants,	)	
	)	
v.	)	File Nos. E-93-43, E-93-44, E-93-45
	)	
Century Telephone of Wisconsin,	)	
Inc., et al.	)	
	)	
Defendants	)	
	)	

**To: Arthur I. Steinberg  
Administrative Law Judge**

**CERTIFICATION OF GOOD FAITH ATTEMPT TO RESOLVE DISCOVERY DISPUTE**

I am an attorney with the law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, counsel for the Carolina Telephone and Telegraph Company, in File No. E-93-43, United Telephone Company of Pennsylvania, in File No. E-93-44, and United Telephone Company of Florida in File No. E-93-45, ("Defendants") in this matter.

In a July 18, 2001 telephone conversation, I advised Charles V. Mehler III, an attorney at the law firm of Dickstein Shapiro Morin & Oshinsky LLP, counsel for Complainant Ascom Holding, Inc. (f/k/a Ascom Communications, Inc. and U.S. Communications of Westchester, Inc.) ("Complainant"), that the Defendants intended to file a motion to compel responses to Complainant's First Set of Interrogatories nos. 3 and 4(a-f), unless Complainant agreed to provide substantive answers responsive to those Interrogatories. Mr. Mehler III informed me

that Complainant would stand by its answers. I advised Mr. Mehler III that, in view of Complainant's position, the Defendants would proceed with its motion to compel discovery.

  
Mary J. Sisak

Blooston, Mordkofsky, Dickens,  
Duffy & Prendergast  
2120 L Street, N.W., Suite 300  
Washington, D.C. 20037  
Tel: (202)659-0830

Dated: July 18, 2001

# **EXHIBIT A**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
C.F. Communications Corp., et al.	)	EB Docket No. 01-99
	)	
Complainants,	)	
	)	File Nos. E-93-43, E-93-44, E-93-45
v.	)	
	)	
Century Telephone of Wisconsin,	)	
Inc., et al.	)	
	)	
Defendants	)	

**To: Arthur I. Steinberg  
Administrative Law Judge**

**SPRINT CORPORATION DEFENDANTS  
FIRST SET OF INTERROGATORIES TO COMPLAINANT  
ASCOM COMMUNICATIONS, INC. N/K/A ASCOM HOLDING, INC.**

Carolina Telephone and Telegraph Company, United Telephone Company of Pennsylvania, and United Telephone Company of Florida, the Defendants in File Nos. E-93-43, E-93-44, and E-93-45, respectively, (collectively "the Defendants"), by their attorneys and pursuant to Section 1.323 of the Commission's Rules, hereby propound the following interrogatories upon Ascom Communications, Inc. n/k/a Ascom Holding, Inc. ("Ascom") and request that Ascom respond separately, fully, in writing, and under oath as required by Section 1.323(b) of the Commission's Rules unless an objection is made.

If Ascom objects to an interrogatory or any portion thereof, it should clearly state the reason and answer fully any remaining portion of such interrogatory to which no objection exists.

**DEFINITIONS/INSTRUCTIONS**

1. The term "communication" means every manner of transmitting or receiving



information, opinions, or thoughts, orally, in writing, in person or otherwise.

2. The terms "document" and "documents" mean all writings or printed matter of any kind, including the originals and all copies, identical or non-identical, whether different from the originals by reason of any notation made on such copies or otherwise, including, without limitation: records, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, inter-office or intra-office communications, telephone message slips, offers, notations of conversations, bulletins, drawings, plans, computer printouts, computer input or output, teletypes, telefaxes, invoices, worksheets, ledger books, books of account, and all drafts, alterations, modifications, changes and amendments of any of the foregoing. The terms "document" and "documents" also include all graphic or aural records or representations of any kind, including without limitation, photographs, charts, graphs, microfilm, videotape, recordings, motion pictures, and electronic, mechanical, or electrical records, or recordation of any kind, including, without limitation, tape cassettes, discs, and recordings.

3. The term "person" means any natural person, corporation, partnership, proprietorship, association, organization, team, group of natural persons, or joint venturers.

4. The use of the singular shall be deemed to include the plural.

5. The term "refer" means to discuss, report on, review, consider, evaluate, or explain by direct mention of the subject matter of the request.

6. The term "relate" means to comprise, explicitly, refer to, be reviewed in conjunction with, or be generated as a result of the subject matter of the request, or to reflect, record, memorialize, discuss, evaluate, consider, review or report on the subject matter of the request.

7. The term "possession" denotes actual or constructive possession and includes any document within Ascom's custody or control, any document that Ascom has a legal right to obtain from another, and any document within the possession of Ascom's agents, employees or representatives.

8. The term "identify" means as follows:

- (a) when used in reference to a natural person, means to state the following:
  - (1) the person's full name;
  - (2) the person's last known home address and telephone number;
  - (3) the person's last known business address and telephone number;
  - (4) the name of the person's last known employer;
  - (5) the person's last known title, position, or business;
  - (6) if employee, the duration of employment;
  - (7) if employee, describe responsibilities;
- (b) when used in reference to any person other than a natural person, means to state the full name, the present or last known address of the principal place of business, and the place(s) of incorporation or business qualification;
- (c) when used in reference to a location, means, to state the street address, city and state, or if such identification is not possible, a complete description of the location;
- (d) when used in reference to a document, means to describe the form of each document (e.g., letter, graph, report, message, etc.), to state the date or

approximate date that each such document was prepared, and to state where the original and non-original are located. If Ascom knows of a document which no longer exists, but that falls within the ambit of one of the interrogatories, describe the facts surrounding the disposition of that document;

- (e) when used in connection with specifying "facts", means to state each occurrence, act, inaction, or omission upon which Defendant relies; those persons present, participating, party to or involved in such occurrence, act, inaction, or omission; and that date and place of each such occurrence, act, inaction, or omission; and
- (f) when used in reference to a meeting, conference, correspondence, or communication, means to state its date, time, location, whether in person or by telephone, to identify persons originating and receiving the correspondence or communication, identify other persons involved, persons present, and to identify any documents reflecting what occurred at or referring to the meeting, conference, correspondence, or communication.

9. Any reference to a corporate or business entity shall include references to any employee, principal, or agent of such business or entity.

10. With respect to any document otherwise responsive to an interrogatory which has been lost, destroyed or is withheld under a claim of privilege or otherwise, identify the document and state with particularity the circumstances whereby the document was lost or destroyed and/or the basis of any privilege claimed.

11. The term "Defendant" or "Defendants" as used herein and in each of the interrogatories below means Carolina Telephone and Telegraph Company, United Telephone Company of Pennsylvania, and United Telephone Company of Florida.

12. The term "relevant time period" for a given formal complaint as used herein and in each of the interrogatories below means the two-year period prior to the date the Complainant filed its formal complaint against the Defendants up to and including April 16, 1997.

13. The term "EUCL" as used herein and in each of the interrogatories below means the End User Common Line Charge that the Complainant claims was wrongfully assessed and which is the subject matter of the proceeding designated for hearing by the HDO.

14. The term "HDO" as used herein and in each interrogatory below means the Federal Communications Commission's Hearing Designation Order (EB Docket No. 01-99), Mimeo DA 01-1044, released April 24, 2001.

15. The term "public payphone" as used herein and in each interrogatory below means "a pay telephone ... used to provide a public telephone service when a public need exists, such as at an airport lobby, at the option of the telephone company and with the agreement of the owner of the property on which the phone is placed." HDO at Para. 4.

16. The term "semi-public payphone" as used herein and in each interrogatory below means a pay telephone used to provide service when "there is a combination of general public and specific customer need for the service, such as at a gasoline station or pizza parlor." HDO at Para. 4.

17. These interrogatories are continuing in nature and shall be promptly supplemented so as to keep the responses accurate in all respects.

### INTERROGATORIES

**Interrogatory No. 1:** In the event that the business or legal entity that filed the formal complaints against the Defendants no longer exists, please identify each person or entity that claim a right to receive any monetary settlement that might be given or any damages that might be awarded as a result of the formal complaints, including, but not limited to, the name address, and telephone number of any debtor-in-possession or bankruptcy trustee or estate.

**Interrogatory No. 2:** If the business or legal entity that filed the formal complaints sold or otherwise transferred its business or any payphones identified in response to Interrogatory No. 1 to another entity, please identify the entity, the business or payphones involved, the date of closing, and any documents that describe that transaction.

**Interrogatory No. 3:** On a Defendant-by-Defendant basis, identify by telephone number and physical location (including street address, community, state and ZIP Code) of each pay telephone for which the Complainant is seeking damages for the relevant time period in this proceeding, and identify any documents in the Complainant's possession which support Complainant's claim.

**Interrogatory No. 4:** For each individual pay telephone identified in response to Interrogatory No. 3, provide separately the following information:

- a) the telephone number of the payphone;
- b) the service commencement date of the payphone;
- c) the service termination date of the payphone, or a statement that the payphone is still in service;
- d) the time period for which damages are being claimed by the Complainant for the

payphone;

- e) the exact dollar amount of EUCL charges actually paid by the Complainant to the Defendants for the payphone during the period specified in response to Interrogatory No. 4(d), above; and identify all documents in the Complainant's possession demonstrating Complainant's payment of such EUCL charges;
- f) the identity of the premises owner/lessee;
- g) state expressly whether the Complainant classifies and claims the payphone to be a public payphone or a semi-public payphone; and
- h) state the specific reasons for Complainant's classification and claim with respect to the payphone in response to Interrogatory No. 4(g), above.

**Interrogatory No. 5:** On a Defendant-by-Defendant basis, state the total dollar amount of damages claimed for the relevant time period.

**Interrogatory No. 6:** State in detail and with complete specificity the methodology by which:

- a) the dollar amount of the damages set forth in response to Interrogatory No. 5 were derived; and
- b) the methodology that the Complainant will use to prove damages at the evidentiary hearing in this case.

**Interrogatory No. 7:** For each of the calendar years comprising the relevant time period, state the average monthly revenues derived from Complainant's semi-public payphones served by the Defendants.

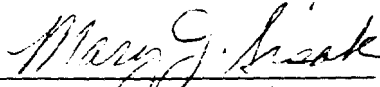
**Interrogatory No. 8:** For each of the calendar years comprising the relevant time period, state

the average monthly revenues derived from Complainant's public payphones served by the Defendants.

Respectfully submitted,

**Carolina Telephone and Telegraph  
Company;  
United Telephone Company of  
Pennsylvania;  
United Telephone Company of  
Florida**

Blooston, Mordkofsky, Dickens,  
Duffy & Prendergast  
2120 L Street, N.W., Suite 300  
Washington, D.C. 20037  
Tel: (202)659-0830

By:   
Benjamin H. Dickens, Jr.  
Gerard J. Duffy  
Robert M. Jackson  
Mary J. Sisak

Dated: June 22, 2001

Their Attorneys

### **CERTIFICATE OF SERVICE**

I hereby certify that on June 22, 2001, a copy of the foregoing was served by first-class United States mail, postage prepaid, on the following parties:

The Honorable Arthur I. Steinberg  
Administrative Law Judge  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, S.W.  
Room 1-C861  
Washington, D.C. 20554  
(Hand Delivered)

Magalie Roman Salas, Secretary  
Office of the Commission Secretary  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, S.W. Room TW-B204  
Washington, D.C. 20554  
(Hand Delivered)

Tejal Mehta, Esquire  
Market Disputes Resolution Division  
Enforcement Bureau  
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Trent B. Harkrader, Esquire  
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Enforcement Bureau  
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Room 3-A440  
Washington, D.C. 20554  
(Hand Delivered)

David H. Solomon, Chief  
Enforcement Bureau  
Federal Communications Commission  
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Washington, D.C. 20554  
(Hand Delivered)



# EXHIBIT B

Albert H. Kramer, Esquire  
Dickstein, Shapiro, Morin & Oshinsky, LLP  
2101 L Street, N.W.  
Washington, D.C. 20037

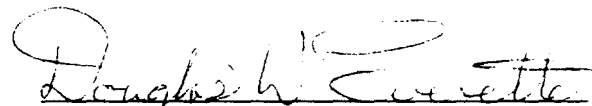
Michael Thompson, Esquire  
Wright & Talisman, P.C.  
1200 G Street, N.W., Suite 600  
Washington, D.C. 20005

John M. Goodman, Esquire  
Verizon  
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Washington, D.C. 20005

Sherry A. Ingram, Esquire  
Verizon  
1320 North Court House Road  
8<sup>th</sup> Floor  
Arlington, Virginia 22201

William A. Brown, Esquire  
Davida M. Grant, Esquire  
Southwestern Bell Telephone Company  
1401 I Street, N.W., Suite 1100  
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Angela M. Brown, Esquire  
Theodore Kingsley, Esquire  
Bell South Telecommunications Inc.  
675 West Peachtree Street  
Suite 4300  
Atlanta, Georgia 30375



Douglas W. Everette

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

C.F. Communications Corp., et. al.,

### Complainants,

v.

Century Telephone of Wisconsin, Inc.,  
et. al.,

**Defendants.**

EB Docket No. 01-99

**File Nos. E-93-43, E-93-44, E-93-45**

**COMPLAINANT'S RESPONSES AND OBJECTIONS  
TO DEFENDANTS' FIRST SET OF INTERROGATORIES**

Pursuant to Section 1.323(b) of the Commission's rules, 47 C.F.R. § 1.323(b),  
Complainant herein responds to Defendant's First Set of Interrogatories to Complainant.

## GENERAL RESPONSES AND OBJECTIONS

1. Complainant's responses to the Interrogatories are based on the best information presently known to Complainant, and Complainant reserves the right to amend, supplement, correct, or clarify its responses when other or additional information becomes available, and to interpose additional objections or to move for an appropriate order when and if such becomes necessary.

2. Where the information requested by these Interrogatories is ascertainable from documents in the possession, custody, or control of Complainant, and the burden of

ascertaining or deriving the information from such records is the same for Defendant as for Complainant, Complainant will make such documents available for inspection and review by Defendant. The fact that Complainant produces documents to Defendant, or makes documents available for inspection and review by Defendant, however, does not mean that such documents provide evidence of all ANIs for the telephone lines that Complainant had in service during the period through April 16, 1997, or provide evidence of all damages incurred by Complainant during the period through April 16, 1997. Rather, additional information or documents from Defendant may be needed to ascertain all the ANIs for the telephone lines that Complainant had in service or all the damages that Complainant incurred as a result of the EUCL charges billed by Defendant.

3. Complainant will produce documents to Defendant, and make documents available for inspection and review by Defendant, provided that Defendant signs an appropriate confidentiality agreement.

4. Complainant objects to these Interrogatories to the extent that they seek any information or material that is subject to the attorney-client privilege or the common interest privilege or information or material that was prepared in anticipation of litigation or that otherwise constitutes protectable work product.

5. Complainant objects to these Interrogatories as unduly burdensome to the extent that they seek information that is already in the possession of Defendant through Defendant's records or otherwise.

6. The term "Sprint" or "Defendant," as used in these Responses, Objections, and General Objections shall be defined to include the Defendant, Sprint Corporation, and any and all of its predecessor or successors, including, but not limited to, Carolina Telephone and Telegraph Company, United Telephone Company of Pennsylvania, and

United Telephone Company of Florida, as well as any agents, attorneys, employees, or other persons or entities acting on behalf of these entities.

### RESPONSES AND OBJECTIONS

1. In the event that the business or legal entity that filed the formal complaints against the Defendants no longer exists, please identify each person or entity that claim a right to receive any monetary settlement that might be given or any damages that might be awarded as a result of the formal complaints, including, but not limited to, the name address, and telephone number of any debtor-in-possession or bankruptcy trustee or estate.

Response:

Subject to the foregoing General Objections, Complainant states that the business or legal entity that filed the formal complaints against the Defendants still exists under its new name, Ascom Holding, Inc.

2. If the business or legal entity that filed the formal complaints sold or otherwise transferred its business or any payphones identified in response to Interrogatory No. 1 to another entity, please identify the entity, the business or payphones involved, the date of closing, and any documents that describe that transaction.

Response:

Subject to the foregoing General Objections, Complainant states that it sold its payphones to Peoples Telephone Company (n/k/a Davel Communications) in or about November 1993. The payphones involved are listed on an ANI list dated approximately October 1993 that Complainant previously provided to counsel for Defendant in August and/or September, 2000. This list, and any other relevant, non-privileged documents in Complainants' possession, custody, or control that describe this transaction will be made available for Defendant's inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700.

3. On a Defendant-by-Defendant basis, identify by telephone number and physical location (including street address, community, state and ZIP code) of each pay telephone for which the Complainant is seeking damages for the relevant time period in this proceeding, and identify any documents in the Complainant's possession which support Complainant's claim.

Objection:

Complainant objects to this Interrogatory because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has the information requested in this Interrogatory within its possession, custody, or control.

Response:

Subject to this specific objection and the foregoing General Objections, Complainant responds to this Interrogatory by stating that the telephone number and physical location of each pay telephone for which Complainant is seeking damages can be ascertained or derived from the ANI list referenced in Complainant's response to Interrogatory No. 2, which was previously provided to counsel for Defendant, and from the various phone bills received from Defendant that are in Complainant's possession, custody, or control, as well as from the documents already in Defendant's possession, custody, or control, including Defendant's installation and billing records. Because the burden of ascertaining or deriving the information necessary to answer this interrogatory from these records is the same for Defendant and for Complainant, Complainant will make the responsive, non-privileged documents in its possession, custody, or control available to Defendant for inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700.

4. For each individual pay telephone identified in response to Interrogatory No. 3, provide separately the following information:

- a) the telephone number of the payphone;
- b) the service commencement date of the payphone;
- c) the service termination date of the payphone, or a statement that the payphone is still in service;
- d) the time period for which damages are being claimed by the Complainant for the payphone;
- e) the exact dollar amount of EUCL charges actually paid by the Complainant to the Defendants for the payphone during the period specified in response

to Interrogatory No. 4(d), above; and identify all documents in the Complainant's possession demonstrating Complainant's payment of such EUCL charges;

- f) the identity of the premises owner/lessee;
- g) state expressly whether the Complainant classifies and claims the payphone to be a public payphone or a semi-public payphone; and
- h) state the specific reason for Complainant's classification and claim with respect to the payphone in response to Interrogatory No. 4(g), above.

Objection:

Complainant objects to this Interrogatory because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has the information requested in this Interrogatory within its possession, custody, or control.

Response:

Subject to this specific objection and the foregoing General Objections, Complainant answers this interrogatory as follows:

(a), (b), (c) The telephone numbers of Complainant's payphones, and the service commencement and termination dates of the payphones can be ascertained or derived from the ANI list and phone bills identified in Complainant's Response Interrogatory Number 3, in combination with the documents and information already in Defendant's possession, custody, or control, including documents and information regarding the installation and disconnect or suspension dates for the lines that Complainant had in service during the relevant period, and Defendant's billing records on the payphone lines subscribed to by Complainant. Because the burden of ascertaining or deriving the information necessary to answer this interrogatory from these records is the same for Defendant and for Complainant, Complainant will make the responsive, non-privileged documents in its



possession, custody, or control available to Defendant for inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700.

(d) Complainant is seeking damages for the time period extending from the time Complainant's lines were installed through and including April 16, 1997.

(c) A complete, accurate, and detailed computation of the exact dollar amount of EUCL charges actually paid by Complainant to the Defendant for the time period specified in response to Interrogatory No. 4(d) damages can be completed after Defendant produces information and documents within the Defendant's possession, custody, or control, including information regarding the installation date and suspension or disconnect date for each ANI Complainant had in service, billing records, and information as to the applicable EUCL rates that the Defendant had in effect during the relevant period. With use of this information in Defendant's possession, custody, or control, Defendant can calculate the exact dollar amount of EUCL charges paid by Complainant to the Defendant as easily as Complainant can calculate such an amount.

(f) The identity of the premises owner/lessee can be ascertained or derived from the ANI list and phone bills identified in Complainant's Response Interrogatory Number 3, in combination with the documents and information already in Defendant's possession, custody, or control, including documents and information regarding the installation and disconnect or suspension dates for the lines that Complainant had in service during the relevant period, and Defendant's billing records on the payphone lines subscribed to by Complainant. Because the burden of ascertaining or deriving the information necessary to

answer this interrogatory from these records is the same for Defendant and for Complainant, Complainant will make the responsive, non-privileged documents in its possession, custody, or control available to Defendant for inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700.

(g) All of Complainant's payphones were public payphones.

(h) Unlike Defendant's business, Complainant's business was focused on public pay telephones. The telephones owned, installed, and/or serviced by Complainant were installed for public use, rather than for the use of any specific customer or premises owner or for "a combination of general public and specific customer need." Various attributes of Complainant's payphones, while overlapping and not required to establish their public purpose and use, support the conclusion that Complainant's payphones were for public use. The majority of these payphones, for instance, were installed outdoors where they would be most available to the public. In those instances where Complainant installed a pay telephone indoors, such pay telephone was placed in the area where the pay telephone would be most available to the public. As a matter of business practice, Complainant did not generally install pay telephones to meet a specific customer need or the specific needs of a location owner or manager. It was Complainant's practice, both currently and during the time period relevant to this proceeding, to select locations for its payphones on the basis of coin revenue potential, meaning locations that are available to the largest number of end users. Such locations are public places.

5. On a Defendant-by-Defendant basis, state the total dollar amount of damages claimed for the relevant time period.

Response:

Subject to the foregoing General Objections, Complainant states that a complete, accurate, and detailed computation of the total dollar amount of damages claimed by Complainant for the relevant time period can be completed after Defendant produces information and documents within the Defendant's possession, custody, or control, including information regarding the installation date and suspension or disconnect date for each ANI Complainant had in service, billing records, and information as to the applicable EUCL rates that the Defendant had in effect during the relevant period. Using this information within its possession, custody, or control, Defendant can calculate Complainant's damages as easily as Complainant can calculate such damages.

6. State in detail and with complete specificity the methodology by which:
  - a) the dollar amount of the damages set forth in response to Interrogatory No. 5 were derived; and
  - b) the methodology that the Complainant will use to prove damages at the evidentiary hearing in this case.

Response:

Subject to the foregoing General Objections, Complainant states that Complainant seeks recovery of the amount paid in EUCL charges to Verizon, plus interest on this amount. The EUCL charges were imposed as a flat fee per telephone line in operation per month. The damages, other than interest, that Complainant incurred for any particular month can be calculated by multiplying the number of lines that Complainant had in

service during a particular month by the EUCL charge rate in effect during that month for that area. The documents and materials to be used by the Complainant to determine the amount of damages, other than interest, sought by Complainant are the ANI list referenced in Complainant's response to Interrogatory Number 4 above, and such records, including billing records, that Complainant obtains from Defendant in discovery in this proceeding.

A complete, accurate, and detailed computation of the damages that Complainant incurred for the period through April 16, 1997 can be completed after Defendant produces information and documents within the Defendant's possession, custody, or control, including information regarding the installation date and suspension or disconnect date for each ANI Complainant had in service, billing records, and information as to the applicable EUCL rates that the Defendant had in effect during the relevant period. Using the method of computation described above, Defendant can use the information within its possession, custody, or control to calculate Complainant's damages as easily as Complainant can calculate such damages.

7. For each of the calendar years comprising the relevant time period, state the average monthly revenues derived from Complainant's semi-public payphones served by the Defendants.

Response:

Subject to the foregoing General Objections, Complainant states that it did not have any semi-public payphones served by the Defendants during the relevant time period.

8. For each of the calendar years comprising the relevant time period, state the average monthly revenues derived from Complainant's public payphones served by Defendants.

Response:

Subject to the foregoing General Objections, Complainant states that an accurate, complete, and detailed computation of the average monthly revenues can be completed after Defendant produces information and documents within the Defendant's possession, custody, or control, including information regarding the installation date and suspension or disconnect date for each ANI that Complainant had in service, billing records, and information as to the applicable EUCL rates that the Defendant had in effect during the relevant period. Using this information within its possession, custody, or control, Defendant can calculate the average monthly revenues derived from Complainant's public payphones served by Defendants as easily as Complainant can calculate such revenues.

**DECLARATION OF NORBERT WEISSBERG**

I, Norbert Weissberg, hereby declare and state that I have read the foregoing, "Complainant's Responses and Objections To Defendants' First Set of Interrogatories," and hereby certify that the statements contained therein answering the Defendant's interrogatories are true and correct to the best of my knowledge and belief.

Signed and dated this \_\_\_\_ day of July 2001.

---

Norbert Weissberg  
Ascom Holding, Inc.

Dated: July 6, 2001

As to Specific and General Objections:

DICKSTEIN SHAPIRO MORIN  
& OSHINSKY LLP  
2101 L Street, N.W.  
Washington, D.C. 20037-1526  
(202)785-9700  
Attorneys for Complainants

By: Albert H. Kramer  
Albert H. Kramer

**CERTIFICATE OF SERVICE**

I hereby certify that on July 6, 2001, a copy of the foregoing Complainant's Responses and Objections to Defendants' First Set of Interrogatories was served by facsimile and first-class mail, postage prepaid, on Rikke Davis, Esquire, Sprint Corporation, 401 9<sup>th</sup> Street, N.W., Suite 400, Washington, D.C. 20004, and Mary Sisak, Esquire, Robert Jackson, Esquire, and Douglas Everette, Esquire, Blooston, Mordkowsky, Dickens, Duffy & Prendergast, 2120 L Street, N.W., Suite 300, Washington, D.C. 20037, and by first-class mail, postage prepaid, and/or hand-delivery, as indicated below, on the following parties:

The Honorable Arthur I. Steinberg  
Administrative Law Judge  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room 1-C861  
Washington, DC 20554  
(Hand-Delivered)

Magalie Roman Salas, Secretary  
Office of the Commission Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-B204  
Washington, D.C. 20554  
(Original and Three Copies Hand-Delivered)

Tejal Mehta, Esquire  
Federal Communications Commission  
Market Disputes Resolution Division  
Enforcement Bureau  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554



David H. Solomon, Chief  
Enforcement Bureau  
Federal Communications Commission  
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Sherry A. Ingram  
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William A. Brown, Esquire  
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Southwestern Bell Telephone Company  
1401 I Street, N.W., Suite 1100  
Washington, D.C. 20005



Charles V. Mehler III

## **CERTIFICATE OF SERVICE**

I hereby certify that on July 18, 2001 a copy of the foregoing was served by first-class United States mail, postage prepaid, on the following parties:

The Honorable Arthur I. Steinberg  
Administrative Law Judge  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, S.W.  
Room 1-C861  
Washington, D.C. 20554  
(Hand Delivered)

Magalie Roman Salas, Secretary  
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Federal Communications Commission  
445 - 12<sup>th</sup> Street, S.W. Room TW-B204  
Washington, D.C. 20554  
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Tejal Mehta, Esquire  
Market Disputes Resolution Division  
Enforcement Bureau  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, S.W.  
Room 5-C817  
Washington, D.C. 20554  
(Hand Delivered)

Trent B. Harkrader, Esquire  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, S.W.  
Room 3-A440  
Washington, D.C. 20554  
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Enforcement Bureau  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554  
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Albert H. Kramer, Esquire  
Dickstein, Shapiro, Morin & Oshinsky, LLP  
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Washington, D.C. 20037

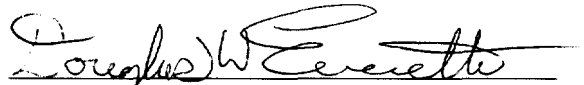
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Douglas W. Everett